

My analysis is shaped by my firm belief that the administration has decided it would be unwise to withdraw from the ABM Treaty anytime soon. In a number of ways, this double reversal in its course may help the President at the upcoming summit, while simultaneously avoiding criticism from those who have forcefully pressed for withdrawal from the ABM Treaty.

First, the administration looks more reasonable to the American people, the Russians, and the rest of the world, compared to their numerous declarations that they plan to unilaterally withdraw from the ABM Treaty. When the Secretary of Defense announced unilateral restraint on October 25—that is, announcing that we would forego missile defense testing in order to avoid violating the ABM Treaty—he made us look more reasonable and that may help pave the way to reach an agreement with Russia on missile defense issues.

Second, the administration has simultaneously made the case that the U.S. missile defense testing program is already now being constrained by the ABM Treaty. This could make it easier to justify a decision to withdraw from the treaty at a later time; in effect, to serve as a prelude to withdrawal in case there is no agreement with Russia.

Third, if, as expected, the administration reaches an agreement with Russia at the Crawford Summit that will permit its missile defense testing program to proceed, the Rumsfeld announcement would allow the administration to argue that the Crawford agreement removed the ABM obstacle to the administration's missile defense testing plans. That would appear to be a victory, showing the critics of the treaty that the administration succeeded in clearing away the testing constraints in the ABM Treaty. That, in turn, would make it easier politically for the administration to agree with Russia to maintain a treaty so loathed by those same critics and from which those critics are pressing the President to withdraw.

If this tactic of straining to create premature conflict with the ABM Treaty and then straining to remove the conflict by deferring the tests helps the administration reach an agreement with Russia and helps assure them of political support for the agreement from the critics of the ABM Treaty, more power to them. If that is what it takes to do the right thing, so be it.

The important point is to work cooperatively with Russia to seek an agreement that will enhance our mutual security. It looks as if that is the path we are on. I hope so, and I hope we can stay on it.

Also hopefully, any new arrangement that emerges from the upcoming summit will be based on more than just the handshake of a gentleman's agreement.

I hope the two leaders can agree on a new strategic framework that will include the following specific elements.

First, any agreement should include a reduction of strategic nuclear weapons—as the President has said—“to the lowest possible number consistent with our national security.” I agree with his assessment that “the premises of Cold War nuclear targeting should no longer dictate the size of our arsenals.”

I would also hope that any agreement on nuclear reductions would be transparent, predictable and difficult to reverse. There is no benefit in creating a situation where we worry that it would be easy and quick for either nation to increase its nuclear forces significantly. We would be better served with an agreement that gives each side confidence that its terms are being met by the other side, and cannot easily be reversed.

Congress should permit the President the flexibility to make these reductions. Current law prevents any reductions in our nuclear delivery systems below the needlessly high START I level. President Bush and President Putin are essentially moving toward a START IV, but Congress is keeping us at a START I, Cold War level of nuclear forces. Our senior uniformed military and civilian defense leaders have wanted Congress to remove these unnecessary restrictions for years. The Senate has already acted in this year's Defense Authorization bill to remove these restrictions, and I hope the House will accept the Senate position in the conference now underway.

Second, the framework for a new security arrangement set forth by President Bush included the issue of reducing the risk of accidental or unauthorized launch of nuclear missiles. I would hope the two nations will explore a variety of steps that can move us in a more stable direction. There has already been good United States-Russian cooperation on data exchanges on missile launches, and we are improving our work on exchanging early warning data to reduce the risk of a false alert leading to a military crisis or a missile launch. We need to expand our cooperation and make sure that neither side maintains unnecessary and potentially destabilizing nuclear postures or practices. For example, both sides could agree to deactivate nuclear weapon systems that are awaiting dismantlement. As President Bush stated, “the United States should remove as many weapons as possible from high alert, hair-trigger status.”

Third, there is also a great need for enhanced and expanded cooperation on reducing the threats of proliferation. There is perhaps no more operationally effective and cost-effective means of reducing proliferation threats than assisting Russia in eliminating its nuclear and chemical weapons. Earlier this year, a task force led by former

Senate Majority Leader Howard Baker and former White House Counsel Lloyd Cutler concluded that “the most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home.” I hope the two nations can continue to make great progress in this area, since much remains to be done.

Finally, given the current anthrax attacks in the United States and our concerns about other potential biological terrorist attacks, we should be working much more closely with Russian scientists who have great expertise in biological warfare defense. They may be able to help us develop better defenses and vaccines, and also help us with the analysis of current biological threats. There is a unique and timely opportunity for major United States-Russian cooperation in this effort.

In short, I hope that President Bush and President Putin will be bold in their effort not just to bury the Cold War, but to forge a new alliance or a mutual security agreement against the terrorist menace that threatens both our nations and the world.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF LARRY R. HICKS, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Executive Calendar No. 515, which the clerk will report.

The legislative clerk read the nomination of Larry R. Hicks, of Nevada, to be United States District Judge for the District of Nevada.

The PRESIDING OFFICER. Under the previous order, time will be evenly divided until 6 o'clock, and controlled between the chairman and ranking member or their designees.

The Senator from Vermont.

Mr. LEAHY. Madam President, my wife was kind enough to remind me that 27 years ago today I was first elected to this body. I am not quite sure I knew at the time I was first elected what I might be doing here today.

I say to the distinguished Presiding Officer, when I took office, the Senate was comprised of 99 men, with one seat vacant because of a tied race in New Hampshire. Madam President, I must say, both on my feelings as a Vermonter and as a Senator with some seniority, I am delighted to see the changing face of the Senate that the distinguished Presiding Officer, and many others, have brought to it.

We should, of course, have a far better balance of both men and women in this body, just as we have those who range across the political spectrum.

Today we will confirm another judicial nominee—actually our 13th since July 20. Since becoming chairman of the Judiciary Committee, after the delay in Senate reorganization and assignment of Committee members, I have taken seriously the responsibility to fill these vacancies on the federal courts around the country with consensus nominees.

Larry Hicks is another candidate strongly supported by both of his home State Senators. One of his home State Senators is the deputy leader among Democrats, the other a well-respected, strong Republican.

We have confirmed as many court of appeals judges as were confirmed in the entire first year of the Clinton administration in 1993—actually four more than the zero total confirmed by the Senate under other control in all of the 1996 session. We are moving forward.

I think we have hearings on five more judicial nominees this week. Of these nominees, the ABA peer reviews on several were only completed and received last week.

I remind the White House that we still have at least 10 or so nominees who do not have their ABA ratings here, having been nominated on September 10 or thereafter. The consequences of the unilateral changes that the Administration made in March to the procedures that had governed the judicial confirmation process for more than 50 years are still being felt.

Others have not finished their paperwork. We are happy to help the White House with that.

In spite of the special circumstances that have arisen this year, we remain well ahead of the pace for the confirmation of judges during the first year of the first Bush administration and the first year of the Clinton administration.

I wanted to take the floor to thank both Senator REID and Senator ENSIGN for working so closely together to

bring us someone with such strong bipartisan support. I also thank Larry Hicks. I think the White House is well intentioned, but he was given poor advice on his paperwork and how to answer the written follow up questions after his hearing. After a quick phone call from Senator REID to him, he immediately faxed a letter to help complete his paperwork—the only thing holding up the nomination. I hope that will be an example to others. It took about a 3-minute phone call and a fax, and we are done. I applaud both Senators for working this out.

I yield the floor.

Mr. REID. Madam President, every Member of the United States Senate should be grateful for the hard work that Chairman LEAHY and the entire Judiciary Committee have exhibited in an effort to move judicial nominations forward as quickly as possible.

Even under the most extraordinary of circumstances, Chairman LEAHY has moved forward in a reasonable and timely fashion.

In the aftermath of the September 11 terrorist attacks, Chairman LEAHY spearheaded legislation through the Judiciary Committee that will provide our law enforcement agencies with the necessary tools to provide homeland security while at the same time protecting our most cherished civil liberties.

The Senate Judiciary Committee and its Members were also forced to endure a lengthy closure of its committee room and office space as a result of the anthrax-laced letter that was sent to Majority Leader TOM DASCHLE's Hart Senate Office.

Yet Chairman LEAHY and the Senate Judiciary Committee persevered.

They even approached the distinguished Chairman of the Senate Appropriations Committee and asked his permission to hold a hearing on judicial nominations in the Committee's historic conference room in the Capitol.

I attended that hearing in support of the nomination of Larry Hicks, of Reno, to be the next Judge on the United States District Court for the District of Nevada.

Larry Hicks is currently a partner in the Reno law firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks.

The Chairman of the litigation section, Larry has been with the firm since 1979.

He has extensive trial court, appellate court and settlement experience, having served as a settlement judge since 1998 for the Nevada Supreme Court.

Larry is also admitted to practice in all State and Federal courts of the State of Nevada, the Circuit Court of Appeals for the Ninth Circuit and the United States Supreme Court.

Prior to his private practice, Larry served the people of Northern Nevada

for 11 years in the Office of the Washoe County District Attorney.

In 1975, he was elected District Attorney of Washoe County.

Larry received his undergraduate degree from the University of Nevada in Reno and received his law degree from the University of Colorado School of Law in Boulder.

He has also received numerous awards and recognition from a variety of organizations, including the Nevada State Bar, where he has served on the Board of Governors, and as President, the American Bar Association, the Association of Trial Lawyers of America and the International Association of Gaming Attorneys.

Larry and his wife Marianne have been blessed with a beautiful family. They are the proud parents of three children, Carrie, Amy and Christopher, all of whom are graduates of the University of Nevada in Reno.

He is a fine man, a fine Nevadan, and I am sure that he will be a fine judge.

I would also like to take a moment to commend my friend and colleague from Nevada, Senator JOHN ENSIGN.

Senator ENSIGN and I have discussed every candidate that he has recommended to President Bush, and I fully support his selections.

It has truly been a bipartisan approach with respect to the federal bench in Nevada, and I am so pleased that the Senate will soon vote to confirm Larry Hicks to be the next Judge on the U.S. District Court for the District of Nevada.

The PRESIDING OFFICER. The Senator from Nevada, Mr. ENSIGN, is recognized.

Mr. ENSIGN. Madam President, let me start by thanking the chairman of the committee for moving this nomination forward. I also thank my fellow Senator, the distinguished Senator from the State of Nevada, for his support in helping to move this nomination forward. This was my first chance as a brand new Senator to have input on one of the most important things we do as Senators, and that is give recommendations to the President on who the Federal judges should be in our home States.

It is my pleasure this day to lend my support to a man of the highest legal and personal distinction, Larry Hicks. A virtually lifelong northern Nevada resident, Mr. Hicks studied business administration at the University of Nevada, Reno. While he left Nevada for a few years to receive his legal education, Nevadans won't hold that against him, as we did not yet have our law school. However, I am proud to say that today Nevadans no longer have to leave their home State to receive a distinguished legal education, for the University of Nevada Las Vegas Boyd School of Law has rapidly become a recognized law school. He has used his legal aptitude to serve his community, his State, and the Nation.

Immediately following graduation from law school, Mr. Hicks went to work for one of Nevada's premier legal minds in the Washoe County District Attorney's Office. Soon, Mr. Hicks was working full time to keep northern Nevada streets safe in his capacity as the chief criminal deputy DA, a position he filled for 3 years before being elected by a substantial margin to the office of district attorney. He held this position for 4 years before entering private practice.

Mr. Hicks has been a partner in one of Nevada's largest law firms for over 20 years and has been chairman of its litigation section for the past 15. He is a fellow in the American College of Trial Lawyers, an organization which admits members by invitation only and is limited to no more than 1 percent of the lawyers in each State.

Mr. Hicks was on the Board of Governors for the State Bar of Nevada for the better part of a decade, during which time he served in many roles, most notably as president during 1993-94. In the legal community, to receive the Presidential nomination to a Federal judgeship is one of the highest honors. Mr. Hicks now has the honor of receiving such a nomination twice. President George H.W. Bush nominated Mr. Hicks to the Federal bench in 1992. Unfortunately, because of things that happened in that political year, his nomination was never acted upon. But today, Larry has the historical distinction of being nominated by that President's son, President George W. Bush.

Mr. Hicks not only takes pride in his work as a fine legal mind but also in his role as a husband and father. His three children have carried on their father's Nevada tradition and received their degrees from his alma mater, the University of Nevada, Reno. In fact, Larry's son Christopher carried on in his father's legal footsteps and attended the University of Nevada's Boyd School of Law.

Madam President, I know his wife Marianne and their children are proud of Larry, and I know Nevada is proud of Larry. Along with the senior Senator from the State of Nevada, HARRY REID, I believe Larry Hicks is someone who will make an outstanding judge.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. I yield such time to Senator REID as he may need.

The PRESIDING OFFICER. The senior Senator from Nevada.

Mr. REID. Madam President, first of all, I express my appreciation to my friend from Nevada. Senator ENSIGN is a doctor, not a lawyer but he could have not have picked anyone better than Larry Hicks. Larry Hicks is a fine lawyer. His brother is a lawyer. His brother Bud was my lawyer for a number of years when I was chairman of the Nevada Gaming Commission. He

was an outstanding lawyer. They both have great personalities. He will have a fine demeanor from the bench.

Larry Hicks has wanted this job for a long time. He was almost confirmed before, but there was a change in administrations and a change in the makeup of the Senate. Even though he had been cleared by the White House, his name did not come forward. He has waited almost an additional 10 years to be a judge. He will be an outstanding judge. He now works for an outstanding firm. Some of the best lawyers in Nevada are part of the firm to which he belongs—McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks. The State of Nevada and the country will be better for having him serve.

I also appreciate my friend, Senator ENSIGN, running these names past me. I appreciate that very much. He and I have a relationship on judges that I think works well. He has reached out to me. With somebody such as Larry Hicks, it is easy. I could not have chosen anyone better than Larry Hicks myself.

Again, I applaud and commend Senator ENSIGN for this choice.

I ask unanimous consent that all time be yielded back and the vote begin now.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

All time is yielded back. The question is, Will the Senate advise and consent to the nomination of Larry R. Hicks, of Nevada, to be United States District Judge for the District of Nevada?

The clerk will call the roll.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Georgia (Mr. MILLER), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Utah (Mr. HATCH), the Senator from Tennessee (Mr. FRIST), the Senator from Arizona (Mr. MCCAIN), the Senator from Oregon (Mr. SMITH), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

I further announce that if present and voting the Senator from Utah (Mr. HATCH), would vote "yea."

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 322 Ex.]

YEAS—83

Akaka	Domenici	Lott
Allard	Dorgan	Lugar
Allen	Durbin	McConnell
Bayh	Edwards	Mikulski
Bennett	Ensign	Murkowski
Bingaman	Enzi	Murray
Bond	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Fitzgerald	Nickles
Bunning	Graham	Reed
Burns	Gramm	Reid
Byrd	Grassley	Roberts
Campbell	Gregg	Rockefeller
Cantwell	Hagel	Santorum
Carnahan	Harkin	Sarbanes
Carper	Helms	Schumer
Chafee	Hollings	Sessions
Cleland	Hutchinson	Shelby
Clinton	Hutchison	Smith (NH)
Cochran	Inhofe	Snowe
Collins	Inouye	Specter
Conrad	Johnson	Stabenow
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
Daschle	Leahy	Thompson
Dayton	Levin	Thurmond
DeWine	Lieberman	Warner
Dodd	Lincoln	

NOT VOTING—17

Baucus	Jeffords	Smith (OR)
Biden	Kennedy	Torricelli
Brownback	Kerry	Voinovich
Corzine	Landrieu	Wellstone
Frist	McCain	Wyden
Hatch	Miller	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRPORT SECURITY

Mr. DURBIN. Mr. President, I rise as if in morning business to address an issue which has been debated at length on Capitol Hill since September 11.

Since September 11, Americans have been focused on the issue of aviation security. There is no question that the system we used to cross America to that date was deficient. Whether stronger aviation security in our airports and around them might have averted that crisis is frankly unknown. But we all know that if we are going to be serious about limiting the opportunities for violence and terrorism on